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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,848	11/19/2003	Donal S. Dunbar JR.	5077-0001	1715

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Michael L. Diaz  
Michael L. Diaz, P.C.  
Suite 200  
555 Republic Drive  
Plano, TX 75074

EXAMINER

DINH, TIEN QUANG

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



**Office Action Summary**

Application No.

10/717,848

Applicant(s)

DUNBAR, DONAL S.

Examiner

Tien Dinh

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11 and 15-19 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific asserted utility or a well established utility.

The plasma beam “striking” the magnet to produce dispersion loops so as to be captured acceleration tube and as the exiting of the dispersion loop from the tube will somehow create an attractive force to propel the magnet and vehicle forward. The applicant is invited to submit a working model to overcome the rejection.

Claims 1-11 and 15-19 are also rejected under 35 U.S.C. 112, first paragraph.

Specifically, since the claimed invention is not supported by either a specific asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

The Examiner fails to see how the exiting of the dispersion loop from the tube will somehow create an attractive force to propel the magnet and vehicle forward. Furthermore, how is the magnet arranged in the spacecraft? The drawings submitted seems very simplistic and doesn't seem to disclose the detail workings of the invention. Furthermore, how can the dispersion loops reverse polarity at a time interval? How is this done?

Furthermore, in page 8 of the disclosure, the applicant is disclosing that the plasma beam is directed into the magnet. How can this be? Isn't the plasma beam suppose to strike the



Art Unit: 3644

magnet? The Examiner fails to see what element 52 in figure 2 is and does. Isn't the magnet element 12? Why did the applicant disclose that the magnet is a continuous loop 52?

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 and 15-19, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang-Diaz or Morris in view of the admitted prior art (page 9, second paragraph (0021)).

Chang-Diaz or Morris discloses using a drive system in a vehicle having a magnet, dispersion loops reversing polarity, and an ignition to produce plasma to "strike the magnet" but is silent on the dispersion tubes. However, the admitted prior art discloses that particle acceleration tubes are well known in the art. Please also note that curved particle acceleration tubes such as those used at CERN or other atom smashers are well known in the art.

It would have been obvious to one skilled in the art at the time the invention was made to have used curved particle acceleration tubes in Chang-Diaz or Morris' system as taught by the admitted prior art to create a safer and more reliable system so that the Chang-Diaz or Morris' system can last longer and have more power.



Art Unit: 3644

Please note that the angling of the tubes merely involved routine steps that one skilled in the art would have taken to capture the dispersion loops so that the drive system can be more efficient to produce thrust.

As for the power source being radioactive isotope decay energy system, the Examiner has taken judicial notice that this power system is well known in this day and time.

### *Response to Arguments*

The examiner thanks the applicant for trying to provide the questions that were posed by the examiner. However, the examiner maintains that the applicant has not provided adequate disclosure to overcome the rejection under 35 U.S.C. 101. The examiner still fails to see how the system as show in figure 2 can produce an attractive force as needed to propel a spacecraft. The examiner maintains that the device of figure 2 of the application produces no net force. Since the plasma is propelled toward the magnet, and somehow dispersed to create a dispersion loop and bent toward the magnet again, a net force being created to propel the spacecraft forward is not possible. Furthermore, the examiner has looked at the exhibit A submitted by the applicant and according to the examiner, this has not been proven to demonstrate how the claimed invention could work. The exhibit A is a physic article that describes the stretched magnetic field that does not support how the claimed subject matter works. The exhibit is an explanation of the magnetic field but does not in detail describe the function of the claimed subject matter. Furthermore, what is the amount of forces, if any, is produced by the claimed invention?

As for the arguments on 35 U.S.C. 112, 1<sup>st</sup> paragraph, the examiner respectfully disagrees with the applicant that the specification and drawings clearly show the operation of the vehicle.



Art Unit: 3644

As was noted by the examiner in the previous office action, the drawings on the claimed subject matter are simplistic or not detailed, which the applicant agrees. Due to the non-detailed drawings, one skilled in the art would not know how the invention would work. As was questioned by the examiner previously, is the plasma beam striking the magnet? According to the applicant, the plasma beam does strike the magnet. If this is so, wouldn't the magnet absorb the plasma? Furthermore, if the plasma does strike the magnet, how does it get the shape of the dispersion loop as shown? Furthermore, how can the magnet produce both loop 52 and 40 and 50? In addition, with the drawing being not detailed, how does the particle acceleration tubes direct the dispersion loops? How do the particle acceleration tubes work? Where does the plasma go when directed by the tubes? How could the dispersion loops seek to return to the normal state to create the attractive force? The disclosure of the invention is inadequate since it does not describe the physics involved or the forces that are needed to create a thrust to the spacecraft. With the inadequate disclosures on the operation of the invention, one skilled in the art would not be able to understand the invention. The examiner understands that the applicant is not required to submit a working model. However, a working model would be helpful in demonstrating that the invention does work as claimed. Applicant's responses seem to raise more questions about the invention.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the



Art Unit: 3644

applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). As interpreted by the examiner, Chang-Diaz or Morris teaches using a drive system in a vehicle having a magnet, dispersion loops reversing polarity, and an ignition to produce plasma to "strike the magnet" but is silent on the dispersion tubes. However, the admitted prior art discloses that particle acceleration tubes are well known in the art. One skilled in the art would have used particle acceleration tubes in Chang-Diaz or Morris' system as taught by the admitted prior art to create a safer and more reliable system. Please note that since Chang-Diaz or Morris shows that the plasma strike the magnet, a dispersion loop is created. By using particle acceleration tubes, an attraction force is produced to move the vehicle.

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



Art Unit: 3644

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tien Dinh whose telephone number is 571-272-6899. The examiner can normally be reached on 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private.PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TD

*Tien DL*